## IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF PENNSYLVANIA

JACKIE EASLICK, LLC, et al.	)
Plaintiff,	) Case No. 23-cv-2000-WSS
V.	) Judge William S. Stickman
CJ EMERALD, et al.	)
Defendants.	) ) )

## OPPOSITION TO MOTION FOR PRELIMINARY INJUNCTION

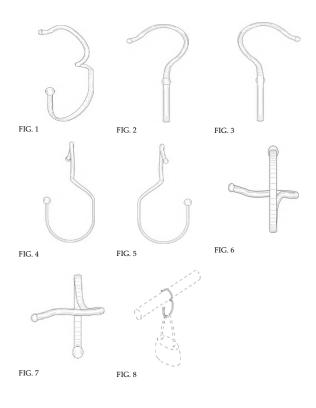
Defendant AccEncyc US (No. 3 on Plaintiff's "Schedule A" and Amazon Seller ID A1K8NIP221R7C9) hereby submits this opposition to plaintiff's motion for a preliminary injunction (Dkt. #46).

As an initial matter, AccEncyc respectfully requests that the Court accept this opposition notwithstanding the previously ordered deadline for oppositions of December 11, 2023 (*see* Dkt. #27 issued Nov. 29, 2023), as AccEncyc has only recently been able to retain counsel in this matter.

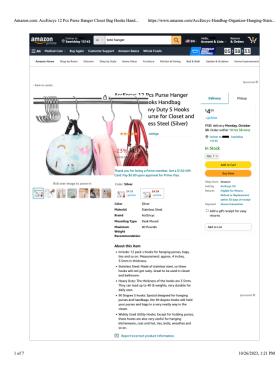
AccEncyc submits that plaintiff's motion should be denied on at least two grounds. First, the plaintiff has failed to make a showing of any likelihood of success on its claim that the items AccEncyc sold on Amazon infringe its design patent. As explained in the opposition filed by Mr. Urbancayk on behalf of several other

defendants (Dkt. #38), the plaintiff's design patent only prevents others from selling a product with the same ornamental design features.

The design protected by the figures shown in plaintiff's patent are visually distinct and different from the design of the products sold by AccEncyc, as is apparent from a comparison of the illustrations and sale listings reproduced in plaintiff's filings:



Dkt. #11 at p.10





Dkt. #39-1 at pp. 16-17. As can be plainly seen, the hooks sold by AccEncyc lack the "corkscrew" twist in the middle of the hook and the ball-shaped ends on plaintiff's design. These differences quickly take the products at issue outside the scope of plaintiff's design patent. At a minimum, they raise substantial doubt as to the applicability of plaintiff's patent and preclude any finding that plaintiff is likely to success on the merits of its infringement claim.

Second, and more urgently, there is no basis whatsoever for maintaining the freeze impose on AccEncyc's funds held by Amazon by the TRO. Indeed, there was never any sufficient basis for ordering such funds held in the first place.

There is not one word specific to AccEncyc in any of plaintiff's filings showing that it – as opposed to some hypothetical off-shore counterfeiter – is more likely that any other defendant in any lawsuit to transfer its assets outside the reach of the Court to avoid paying a judgment in this case. Nor is there one word on any of plaintiff's filings justifying freezing *all* of AccEncye's funds held by Amazon without any knowledge or regard for the quantum of funds frozen in relation to plaintiff's potential recovery in this case, even assuming it is successful in securing a judgment.

Plaintiff has not alleged any quantum of sales by AccEncyc, nor have they justified any quantum of funds that should be held as a result. In fact, AccEncye has sold less than \$500 worth of the products at issue, but the TRO has resulted in over \$48,000.00 in funds being frozen as of today – an amount that is growing every day as a result a sales of unrelated products. Not only is this asset freeze improper for the legal reasons set forth in Mr. Urbancayk's filing (Dkt. #38), it is irreconcilable with any notion of equity for the plaintiff to have deprived AccEncye of approximately 100 times the amount of revenue it has had from any alleged infringement, and to have done so without prior notice or opportunity to be heard. Few businesses can survive cut off from their revenues for now almost a month, and AccEncyce has been and continues to be damaged by this grossly disproportionate hold on its funds, frankly on no other basis than it is a Chinese company.

AccEncyce respectfully requests that the Court deny plaintiff's motion for the reasons set forth above and as stated in the submissions of other defendants and that the Court order an immediate release of its Amazon funds.

December 18, 2023

/s/ Timothy A. Duffy

Timothy A. Duffy Law Office of Timothy A. Duffy, P.C. 725 W Orchard Cir Lake Forest, IL 60045

Counsel for Defendant AccEncyc US